

Message Text

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ACTION DLOS-06

INFO OCT-01 IO-13 ISO-00 AF-08 ARA-10 EA-09 EUR-12 NEA-10

ACDA-10 AGR-10 AID-05 CEA-01 CEQ-01 CG-00 CIAE-00

CIEP-02 COME-00 DODE-00 DOTE-00 EB-07 EPA-04 ERDA-07

FMC-02 TRSE-00 H-02 INR-07 INT-05 JUSE-00 L-03

NSAE-00 NSC-05 NSF-02 OES-06 OMB-01 PA-02 PM-04

PRS-01 SP-02 SS-15 USIA-15 SAL-01 FEA-01 /190 W

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R 081904Z SEP 76

FM USMISSION USUN NY

TO SECSTATE WASHDC 9051

UNCLAS SECTION 1 OF 2 USUN 3623

FROM LOS DEL

E.O. 11652: N/A

TAGS: PLOS

SUBJ: LOS: INFORMAL MEETING OF NEGOTIATING GROUP IV OF

COMMITTEE II (STRAITS USED FOR INTERNATIONAL NAVIGATION),

PM, 7 SEPT. 76

1. NEGOTIATING GROUP IV OF COMMITTEE II (STRAITS USED FOR INTERNATIONAL NAVIGATION) HELD ITS FIRST MEETING IN A DESULTORY FASHION, ENDING AFTER ONE HOUR WITH LIST OF SPEAKERS EXHAUSTED. WILL HAVE AT LEAST ONE MORE MEETING LATER THIS WEEK.

2. MALAYSIA TABLED FOLLOWING PROPOSED AMENDMENTS, NOTING THAT REGIME OF TRANSIT PASSAGE, INCLUDING AIRCRAFT, ACCEPTABLE IF INTERESTS OF STRAITS STATES WERE TREATED SOMEWHAT MORE EQUITABLY, NOTING PARTICULAR CONCERN FOR THE REGIME FOR SHALLOW STRAITS AND THE GENERAL QUESTION OF PROTECTION OF THE ENVIRONMENT:

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A) AMEND ARTICLE 33-2 BY ADDING AFTER THE WORD QTE
CHAPTER UNQTE THE WORDS QTE TO OTHER PROVISIONS OF
THE PRESENT CONVENTION UNQTE.

B) ADD TO END OF ARTICLE 37-3 QTE AND TO OTHER
RULES OF INTERNATIONAL LAW UNQTE.

C) AMEND ARTICLE 38-2 TO READ:

QTE SHIPS IN TRANSIT SHALL:

A) REFRAIN FROM THE FOLLOWING ACTIVITIES:

(I) ANY ACT OF WILFUL OR SERIOUS POLLUTION,
CONTRARY TO THE PRESENT CONVENTION;

(II) ANY FISHING ACTIVITIES;

(III) THE CARRYING OUT OF RESEARCH OR SURVEY
ACTIVITIES;

(IV) ANY ACT AIMED AT INTERFERING WITH ANY
SYSTEMS OF COMMUNICATION OR ANY OTHER
FACILITIES OR INSTALLATIONS OF THE STATED
BORDERING THE STRAITS.

B) COMPLY WITH PREVAILING INTERNATIONAL REGULA-
TIONS, PROCEDURES AND PRACTICES FOR SAFETY
AT SEA, INCLUDING INTERNATIONAL REGULATIONS
FOR PREVENTING COLLISIONS AT SEA.

C) COMPLY WITH PREVAILING INTERNATIONAL REGULA-
TIONS, PROCEDURES AND PRACTICES FOR THE PRE-
VENTION AND CONTROL OF POLLUTION FROM SHIPS.
UNQTE

D) AMEND ARTICLE 39-4 TO READ:

QTE 4. BEFORE DESIGNATING OR SUBSTITUTING SEA LANES
OR PRESCRIBING OR SUBSTITUTING TRAFFIC SCHEMES, STATES
BORDERING STRAITS SHALL REFER PROPOSALS TO THE COMPETENT
INTERNATIONAL ORGANISATION. IN THE DESIGNATION OR SUB-
STITUTION OF SEA LANES AND THE PRESCRIPTION OR SUBSTITU-
TION OF TRAFFIC SEPARATION SCHEMES UNDER THIS ARTICLE,
STATES BORDERING STRAITS SHALL TAKE INTO ACCOUNT:

(A) THE RECOMMENDATIONS OF COMPETENT INTERNATIONAL
ORGANISATIONS;

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(B) THE SPECIAL CHARACTERISTICS OF NAVIGABLE
CHANNELS AND

(C) THE DESITY OF TRAFFIC. UNQTE

E) AMEND ARTICLE 40-1 TO READ:

QTE 1. STATES BORDERING STRAITS MAY MAKE LAWS AND REGU-
LATIONS, IN CONFORMITY WITH THE PROVISIONS OF THE

PRESENT CONVENTION AND OTHER RULES OF INTERNATIONAL LAW, RELATING TO TRANSIT PASSAGE THROUGH STRAITS, IN RESPECT TO ALL OR ANY OF THE FOLLOWING:

- (A) THE SAFETY OF NAVIGATION AND THE REGULATION OF MARINE TRAFFIC AS PROVIDED IN ARTICLE 39;
- (B) THE PROTECTION OF NAVIGATIONAL AIDS AND FACILITIES AND OTHER FACILITIES OR INSTALLATIONS;
- (C) THE PROTECTION OF CABLES AND PIPELINES;
- (D) THE CONSERVATION OF THE LIVING RESOURCES OF THE SEA;
- (E) WITH RESPECT TO FISHING VESSELS, THE PREVENTION OF FISHING, INCLUDING THE STOWAGE OF FISHING GEAR;
- (F) THE PRESERVATION OF THE ENVIRONMENT OF THE STATES BORDERING THE STRAITS AND THE PREVENTION OF POLLUTION THEREOF, BY GIVING EFFECT TO PREVAILING INTERNATIONAL REGULATIONS REGARDING THE DISCHARGE OF OIL, OILY WASTES AND OTHER NOXIOUS SUBSTANCES IN THE STRAIT;
- (G) MARINE SCIENTIFIC RESEARCH AND HYDROGRAPHIC SURVEYS;
- (H) THE TAKING ON BOARD OR PUTTING OVERBOARD OF ANY COMMODITY, CURRENTLY OR PERSON IN CONTRAVENTION OF THE CUSTOMS, FISCAL, IMMIGRATION OR SANITARY REGULATIONS OR STATES BORDERING STRAITS. UNQTE

F) ADD A NEW ARTICLE 40 A READING:

QTE PROTECTION FOR STRAITS WITH SPECIAL PECULIARITIES

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1. NOTWITHSTANDING THE PROVISIONS OF PARAGRAPH 2 OF ARTICLE 40 AND ARTICLE 42 OF THIS CHAPTER, WHERE THE NAVIGATIONAL AND HYDROGRAPHICAL PECULIARITIES OF, AND THE DENSITY OF THE TRAFFIC IN THE STRAIT SO DETERMINE, THE STATE BORDERING THE STRAIT MAY ESTABLISH AND ENFORCE NON-DISCRIMINATORY LAWS AND REGULATIONS LIMITING THE RIGHT OF TRANSIT PASSAGE OF VESSELS, WHICH BECAUSE OF THEIR INSUFFICIENT UNDER-KEEL-CLEARANCE, CONSTITUTE A GRAVE DANGER TO SAFETY OF NAVIGATION OR TO THE MARINE ENVIRONMENT OF THAT STATE. SUCH LAWS AND REGULATIONS SHALL BE MADE IN CONSULTATION WITH THE COMPETENT INTERNATIONAL ORGANIZATION.

2. THE PROVISIONS OF PARAGRAPH 1 SHALL BE SUBJECT TO PARAGRAPHS 3 AND 4 OF ARTICLE 40. UNQTE

G) ADD A NEW ARTICLE 41 A READING:

QTE COMPULSORY INSURANCE

STATES SHALL ENACT LAWS AND REGULATIONS TO ENSURE
THAT VESSELS FLYING THEIR FLAGS OR OR THEIR REGISTRY, WHILE
IN TRANSIT, CARRY ADEQUATE INSURANCE TO MEET ANY CLAIM FOR
ANY LOSS OR DAMAGE CAUSED TO THE STATE BORDERING THE
STRAIT. UNQTE

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ACTION DLOS-06

INFO OCT-01 IO-13 ISO-00 AF-08 ARA-10 EA-09 EUR-12 NEA-10

ACDA-10 AGR-10 AID-05 CEA-01 CEQ-01 CG-00 CIAE-00

CIEP-02 COME-00 DODE-00 DOTE-00 EB-07 EPA-04 ERDA-07

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PRS-01 SP-02 SS-15 USIA-15 SAL-01 FEA-01 /190 W

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FROM LOS DEL

H) ARTICLE 41 AMENDED TO READ:

QTE 1) USER STATES AND STATES BORDERING STRAITS
SHOULD BY AGREEMENT CO-OPERATE:

(A) IN THE ESTABLISHMENT AND MAINTENANCE IN A
STRAIT OF NECESSARY NAVIGATION AND SAFETY
AIDS OR OTHER IMPROVEMENTS IN AID OF INTER-

NATIONAL NAVIGATION; AND
(B) FOR THE PREVENTION AND CONTROL OF POLLUTION
FROM SHIPS.

2) NO CHARGE MAY BE LEVIED UPON FOREIGN SHIPS
BY REASON ONLY OF THEIR PASSAGE THROUGH THE STRAIT.

3) CHARGES MAY BE LEVIED UPON A FOREIGN SHIP
PASSING THROUGH THE STRAIT AS PAYMENT ONLY FOR SPECIFIC
SERVICES RENDERED TO THE SHIP. THOSE CHARGES SHALL
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BE LEVIED WITHOUT DISCRIMINATION. UNQTE.

3. IRAN INTERVENED BRIEFLY TO ESPOUSE INNOCENT PASSAGE
IN STRAITS AND TO OPPOSE OVERFLIGHT. SPAIN ACCEPTED
RSNT PROVISIONS AS BASIS FOR NEGOTIATION, AND DROPPED
INSISTENCE THAT STRAITS PROVISIONS BE MOVED TO SECTION
3 OF CHAPTER I. SPAIN CONTINUES TO OPPOSE OVERFLIGHT
AND TRANSIT PASSAGE FOR WARSHIPS AND SHIPS WITH SPECIAL
CHARACTERISTICS. CHINA ARGUED FOR PRIOR NOTIFICATION
OR CONSENT FOR WARSHIPS AND OPPOSED OVERFLIGHT.
INDONESIA (DJALAL) NOTED THAT RSNT IS UNBALANCED IN
FAVOR OF NAVIGATION, THAT IT DOES NOT ADEQUATELY
PROTECT THE STRAITS STATE'S RESOURCE OR ENVIRONMENTAL
INTERESTS, AND THAT MALAYSIA'S CONCERNS ARE SHARED.
OMAN OBSERVED THAT MALAYSIAN PROPOSALS SHOULD RECEIVE
SYMPATHETIC ATTENTION. PHILIPPINES CONCURRED WITH CHINA
ON WARSHIP DISTINCTION.

4. AS MEETING CLOSED WITH NO SPEAKERS ON THE LIST
EGYPT ANNOUNCED THAT AMENDMENTS TO ARTICLE 43 WOULD BE
TABLED AT NEXT MEETING. US DEL OBTAINED COPY OF
TEXT, WHICH GUARANTEES PROLONGING DEBATE AT NEXT
MEETING:

QTE. 1. THE REGIME OF INNOCENT PASSAGE, IN
ACCORDANCE WITH SECTION 3 OF CHAPTER (1), SHALL APPLY
IN STRAITS USED FOR INTERNATIONAL NAVIGATION BETWEEN
ONE AREA OF HIGH SEAS OR AN EEZ AND THE TERRITORIAL
SEA OF A FOREIGN STATE.

2. IN STRAITS EXCLUDED UNDER PAR. 1 OF ART. 37
FROM THE APPLICATION OF THE REGIME OF INNOCENT PASSAGE,
THE REGIME OF INNOCENT PASSAGE AS SET OUT IN PAR. (1)
OF THIS ARTICLE, SHALL ALSO APPLY PROVIDED THAT THERE
SHALL BE NO SUSPENSION OF INNOCENT PASSAGE THROUGH SUCH
STRAITS. UNQTE.
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PM, 7 SEPT. 76
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